

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

IN THE MATTER OF:

Marilyn Davenport

Case No. 10-75277  
Judge Thomas J. Tucker  
Chapter 13

\_\_\_\_\_  
Debtor(s) /

**ANSWER TO MOTION FOR RELIEF FROM AUTOMATIC STAY AND CO-DEBTOR STAY  
NUNC PRO TUNC**

NOW COMES Debtor(s), by and through her Attorney, John A. Steinberger & Associates, P.C., and answers as follows:

1. Admit.
2. Debtor neither admits nor denies and leaves creditor to his proof.
3. Debtor neither.
4. Admit.
5. Debtor has included for the repayment of the debt in her chapter 13 plan but has only filed motion's regarding creditors violation of the stay for holding a foreclosure sale after the stay was imposed.
6. Debtor is familiar with the Bankruptcy code and states that the language underlined in the motion has been determined to exactly. Support debtors position that the debtor may cure the mortgage during the plan despite the mortgage maturing just before the bankruptcy filing.
7. Neither Admitted nor Denied and leave creditors to its proofs.
8. Neither Admitted nor Denied and leave creditors to its proofs.
9. Denied.
10. Denied.
11. Denies, case law in the following cases support debtor's plan which allows treatment and modification of the loan which expired just prior to the filing of the bankruptcy. Case law on point includes In re Henning, 420, B.R. 773, 786 (Bankr. W.D. Tenn. 2009); In re Escue 184 B.R. 287, 292 (Bankr. M.D. Tenn 1995); In re Sturgill, 337 B.R. 599 (Bankr. W.D. Ky. 2006); In re Kelly 283 B.R. 808 (Bankr. M.D. Fla. 2002); In re Padgett 273 B.R. 277, 279 (Bankr. M.D. Fla 2001); In re Nepil 206 B.R. 72, 76 (Bankr. D.N.J. 1997); In re Lobue, 189 B.E. 216 (Bankr. S.D. Fla. 1995) ; In re Jones, 188 B.RE. 281 (Bankr D. Or. 1995); In re Watson 190 B.R. 32 (Bankr. E.D. Pa. 1995).
12. Denied. Furthermore, plan treatment of the claim is not relevant as cause to lift the automatic stay. Only the question of whether or not the claim is subject to treatment due to expiration immediately pre-petition as opposed to how the claim is treated is relevant.
13. Denied.
14. Denied.
15. Admits Wayne County has filed a secured proof of claim in the amount of \$13,770.06 against the same subject property as this creditor.
16. Admit.
17. Admit.

**WHEREFORE, Debtor prays this Motion is denied.**

  
/s/

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